

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

DECISION AND ORDER
12-CR-14-A

MICHAEL FIJAL,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy for supervision of all pretrial proceedings. On March 28, 2012 defendant Fijal moved to suppress statements made to law enforcement and for other relief. (Dkt. Nos. 8, 37). After briefing and oral argument of the motion, on April 8, 2013, Magistrate Judge McCarthy issued a Report, Recommendation and Order recommending that defendant's motion to suppress be denied, and that defendant's motions for a Bill of Particulars and disclosure of informant identities be denied. (Dkt. No. 54).

On June 10, 2013, defendant Fijal filed objections to, and an appeal of, the Magistrate Judge's Report, Recommendation and Order. (Dkt. No. 63). The United States filed a response (Dkt. No. 64) and Court heard oral argument (Dkt. No. 66).

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report, Recommendation and Order to which objections have been made and reviews the issues under appeal by a clearly erroneous or contrary to law standard of review. Upon *de novo* review and after

reviewing the submissions of the parties and hearing oral argument, the Court adopts the proposed findings of the Report, Recommendation and Order. Upon clearly erroneous or contrary to law review of the issues under appeal, the Court denies the appeal.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report Recommendation and Order, defendant's motion to suppress is denied in all respects and defendant's appeal is denied in all respects. The parties shall appear before this Court on October 4, 2013 at 2:00 p.m. for a status conference and/or meeting to set trial date.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: October 3, 2013